

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Document

34

U.S.C.A. #

03-cv-1408

U.S.D.C. # 01-CR-1158 ←

JUDGE: KTD

DATE: APRIL 2, 2007



INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME): THOMAS R. PISARCZYK
FIRM: U.S. DISTRICT COURT - SOUTHERN DISTRICT OF NEW YORK
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NEW YORK, NEW YORK 10007
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DISTRICT COURT DOCKET ENTRIES --

DOCUMENT DESCRIPTION

DOC. #

CLERK'S CERTIFICATE

SEE ATTACHED LIST OF NUMBERED DOCUMENTS

(~~X~~) Original Record

() Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A. for the Second Circuit on the 2nd Day of April, 2007.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VS A

-v-

Luis A. Otero

U.S.C.A. #

03-cv-1408

U.S.D.C. # 01-cr-1158

JUDGE:

KTD

DATE:

APRIL 2, 2007

Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 33, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

Date Filed

Document Description

Entire Civil file missing at this time

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 2nd Day of April In this year of our Lord, Two Thousand and Seven, and the Independence of the United States this 231st year.

J. Michael McMahon, Clerk

By

Deputy Clerk

APPEAL, CLOSED

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CRIMINAL DOCKET FOR CASE #: 1:01-cr-01158-KTD All Defendants
Internal Use Only

Case title: USA v. Otero
Magistrate judge case number: 1:01-mj-01806

Date Filed: 12/10/2001
Date Terminated: 10/21/2002

| Date Filed | # | Docket Text |
|------------|----|---|
| 10/10/2001 | 1 | ARREST of Luis A. Otero [1:01-m -1806] (gq) (Entered: 10/11/2001) |
| 10/11/2001 | 1 | COMPLAINT as to Luis A. Otero in violation of 18 U.S.C. 2242(b) & 2252A. (signed by Magistrate Judge James C. Francis IV) [1:01-m -1806] (gq) (Entered: 10/11/2001) |
| 10/11/2001 | 2 | CJA 23 Financial Affidavit as to Luis A. Otero. Approved. : (Signed by Magistrate Judge James C. Francis IV) [1:01-m -1806] (gq) (Entered: 10/11/2001) |
| 10/11/2001 | 3 | NOTICE of Appearance for Luis A. Otero by Attorney Jennifer Brown [1:01-m -1806] (gq) (Entered: 10/11/2001) |
| 10/11/2001 | 4 | ORDER Appointing Federal Public Defender for Luis A. Otero. [1:01-m -1806] (gq) (Entered: 10/11/2001) |
| 10/11/2001 | 5 | First Appearance as to Luis A. Otero held. Deft appears with Legal Aid atty Jennifer Brown. AUSA Victor L. Hou present for the gov't. Spanish interpreter present. \$100,000 PRB co-signed by 1 FRP prior to release and 2 others by 10/15/01. Strict PSA supervision with mental health evaluation and treatment if indicated. No use of computer. Allow monitoring of phone. No contact with minors. Surrender passport. Regular travel. Preliminary Examination set for 11/9/01 for Luis A. Otero ; (before Magistrate Judge James C. Francis IV). [1:01-m -1806] (gq) (Entered: 10/11/2001) |
| 10/11/2001 | 6 | Bail modification hearing as to Luis A. Otero held before Magistrate Judge James C. Francis IV. Deft appears with Legal Aid atty Jennifer Brown. AUSA Victor Hou present for the gov't. Adjourn hearing to 10/12/01 at 11:00 A.M. (Mag. Judge Francis, IV). [1:01-m -1806] (gq) (Entered: 10/12/2001) |
| 10/12/2001 | 7 | Bail modification hearing as to Luis A. Otero held before Magistrate Judge James C. Francis IV. Deft appears with Legal Aid atty Jennifer Brown. AUSA Victor Hou present for the gov't. Juan Otero approved as surety for deft. (Mag. Judge Francis, IV). [1:01-m -1806] (gq) (Entered: 10/12/2001) |
| 10/12/2001 | 8 | CJA 23 Financial Affidavit as to Juan Otero as a bail co-signer for Luis A. Otero : (Signed by Magistrate Judge James C. Francis IV) [1:01-m -1806] (gq) (Entered: 10/12/2001) |
| 10/12/2001 | 9 | PRB APPEARANCE BOND filed by Luis A. Otero in the Amount of \$100,000. Co-signed by 1 financially responsible person prior to release and 2 others by 10/15/01. Strict PSA supervision with mental health evaluation and treatment if indicated. No use of computer. Allow monitoring of phone. No contact with minors. Surrender passport. Regular travel limits (SDNY & EDNY). Bail modification on 10/12/01 by Mag. Judge Francis, IV: Juan Otero approved as surety for deft. [1:01-m -1806] (gq) (Entered: 10/12/2001) |
| 10/12/2001 | 10 | Order of advice of penalties and sanctions as to Luis A. Otero. [1:01-m -1806] (gq) (Entered: 10/12/2001) |
| 10/16/2001 | 11 | Filed Memo-Endorsement on letter dated 10/15/01 to Mag. Judge Francis, IV, from deft atty Jennifer Brown, as to Luis A. Otero, requesting that the bond be modified to extend the time for the second and third cosigners until Friday, 10/19/01...THE TIME TO OBTAIN ADDITIONAL CO-SIGNERS IS EXTENDED TO 10/17/01...SO ORDERED... (Signed by Magistrate Judge James C. Francis IV); Copies mailed. [1:01-m -1806] (gq) (Entered: 10/19/2001) |
| 10/18/2001 | 12 | Filed Memo-Endorsement on letter dated 10/18/01 to Mag. Judge Francis, IV, from deft atty Jennifer Brown, as to Luis A. Otero, requesting a modification of deft's bail conditions so that the 2nd & 3rd cosigners, Max Flores and Oscar Aguirre are to sign today, 10/18/01. An additional cosigner, Mr. Otero's mother, will sign before the close of business on Monday, 10/22/01. In addition, Mr. Otero will post \$700 cash to secure the bond before the close of business on Monday, 10/22/01...APPLICATION GRANTED... (Signed by Magistrate Judge James C. Francis IV); Copies mailed. [1:01-m -1806] (gq) (Entered: 10/19/2001) |
| 10/19/2001 | 13 | TRANSCRIPT of record of proceedings as to Luis A. Otero for dates of 10/12/01, before Magistrate Judge James C. Francis IV. [1:01-m -1806] (gq) (Entered: 10/19/2001) |
| 10/19/2001 | 14 | TRANSCRIPT of record of proceedings as to Luis A. Otero for dates of 10/11/01, before Magistrate Judge James C. Francis IV. [1:01-m -1806] (gq) (Entered: 10/19/2001) |
| 10/23/2001 | 15 | TRANSCRIPT of record of proceedings as to Luis A. Otero for dates of 10/11/01, before Magistrate Judge James C. Francis IV. [1:01-m -1806] (gq) (Entered: 10/23/2001) |
| 10/24/2001 | 16 | Filed Memo-Endorsement by atty. Jennifer Brown on 10/23/01 as to Luis A. Otero, sign by Judge James C. Francis, bail modification to deft. Defendants mother does not have to sign the bond, however the deft. reporting to pre-trial will be increased to twice a week. In addition the deft. will abide by the following added conditions: he will take a route to and from his home that does not pass by the school which is directly across from his house. (Signed by Magistrate Judge James C. Francis IV); Copies mailed. [1:01-m -1806] (jma) (Entered: 10/31/2001) |
| 10/29/2001 | 17 | ORAL ORDER as to Luis A. Otero , to Continue in Interests of Justice time is excluded from 10/29/01 to 11/28/01 (Entered by Magistrate Judge Debra C. Freeman) [1:01-m -1806] (jma) (Entered: 10/31/2001) |
| 11/09/2001 | 18 | ORDER as to Luis A. Otero, to Continue in Interests of Justice time is excluded from 11/9/01 to 12/10/01 (Signed by Magistrate Judge Ronald L. Ellis); Copies mailed. [1:01-m -1806] (kw) (Entered: 11/09/2001) |
| 12/10/2001 | 19 | INDICTMENT as to Luis A. Otero (1) count(s) 1, 2, 3 (Preliminary Examination cancelled.) (jm) (Entered: 12/13/2001) |
| 12/10/2001 | 20 | CASE Assigned to Judge Kevin T. Duffy (jm) (Entered: 12/13/2001) |

| | | |
|------------|----|---|
| 12/17/2001 | 16 | Filed Memo-Endorsement on letter addressed to Judge Duffy from AUSA Victor L. Hou, dated 12/13/01, as to deft Luis A. Otero. Arraignment for the deft is scheduled for 12/17/01 at 9:15 a.m. The Govt requests that time be excluded from 12/13/01 until 12/17/01 under the Speedy Trial Act, Title 18, U.S.C., Section 3161(h)(8)(A); JUDGE "SO ORDERED". (Signed by Judge Kevin T. Duffy); Copies mailed. (bw) (Entered: 12/18/2001) |
| 12/19/2001 | 17 | Filed Memo-Endorsement on letter addressed to Judge Duffy from AUSA Victor L. Hou, dated 12/18/01, as to deft Luis A. Otero. The Govt requests that time be excluded from 12/18/01 until 12/19/01 under the Speedy Trial Act, Title 18, U.S.C., Section 3161(h)(8)(A); JUDGE "SO ORDERED". (Signed by Judge Kevin T. Duffy); Copies mailed. (bw) (Entered: 12/19/2001) |
| 12/19/2001 | | Arraignment as to Luis A. Otero held: Luis A. Otero (1) count(s) 1, 2, 3, before Judge Kevin T. Duffy. Deft present w/atty Yasmin Cadet and AUSA Victor Hou for arraignment. The deft entered a plea of Not Guilty. Deft continued release on bail as previously set. Bail hearing set for 1/14/02 at 9:30 a.m. (bw) (Entered: 12/26/2001) |
| 12/19/2001 | | PLEA entered by Luis A. Otero. Court accepts plea. Not Guilty: Luis A. Otero (1) count(s) 1, 2, 3. (bw) (Entered: 12/26/2001) |
| 12/19/2001 | | ORAL ORDER as to Luis A. Otero . SET Bail Hearing for 9:30 a.m. 1/14/02 for Luis A. Otero. (Entered by Judge Kevin T. Duffy) (bw) (Entered: 12/26/2001) |
| 01/15/2002 | | Bail hearing as to Luis A. Otero held before Judge Kevin T. Duffy. Deft Luis Otero present w/atty Jennifer Brown. AUSA present Victor Hou. Deft is remanded. Trial set for 1/29/02 at 9:30. Time excluded. (bw) (Entered: 01/16/2002) |
| 01/15/2002 | | ORAL ORDER as to Luis A. Otero . SET Jury trial for 9:30 1/29/02 for Luis A. Otero ; and to Continue in Interests Justice time is excluded from 1/15/02 to 1/29/02. (Entered by Judge Kevin T. Duffy) (bw) (Entered: 01/16/2002) |
| 01/29/2002 | | Pretrial Conference as to Luis A. Otero held before Judge Kevin T. Duffy. Deft Luis Otero present w/atty Jennifer Brown. AUSA present Victor Hou. Deft continued remanded. Time excluded. Next conference set for 4/2/02 at 9:45. (bw) (Entered: 01/30/2002) |
| 01/29/2002 | | ORAL ORDER as to Luis A. Otero . SET pre-trial conference for 9:45 4/2/02 for Luis A. Otero. (Entered by Judge Kevin T. Duffy) (bw) (Entered: 01/30/2002) |
| 03/04/2002 | | CJA 20 APPOINTMENT OF AND AUTHORITY TO PAY COURT APPOINTED COUNSEL as to Luis A. Otero : Appointment of Attorney Isabelle Kirshner . (Signed by Magistrate Judge Debra C. Freeman) (moc) (Entered: 03/28/2002) |
| 03/06/2002 | 18 | Filed Memo-Endorsement on letter addressed to Magistrate Judge Freeman from AUSA Victor L. Hou, dated 3/4/02, as to deft Luis A. Otero. On 2/28/02, attorney Jennifer Brown notified Judge Duffy that the attorney-client relationship had deteriorated and requested that new counsel be appointed for the deft. On 3/1/02, the Govt received a communication from Judge Duffy's chambers indicating that Judge Duffy had approved Ms. Brown's request to be relieved and had referred substitution of counsel for the deft to Magistrate Court. Accordingly, the Govt hereby requests substitution of counsel for the deft and asks the Judge to appoint counsel from the Criminal Justice Act Panel to represent the deft; JUDGE "SO ORDERED". (Signed by Magistrate Judge Debra Freeman); Copies mailed. (bw) (Entered: 03/08/2002) |
| 04/02/2002 | | PRETRIAL CONFERENCE as to Luis A. Otero held before Judge Kevin T. Duffy. Deft present w/atty Isabelle Kirshner. AUSA present Victor Hou. Next conference set for 4-18-02 at 11:00. Time excluded. Deft continued remanded. (bw) (Entered: 04/04/2002) |
| 04/02/2002 | | ORAL ORDER as to Luis A. Otero . SET pretrial conference for 11:00 a.m. 4/18/02 for Luis A. Otero. (Entered by Judge Kevin T. Duffy) (bw) (Entered: 04/04/2002) |
| 04/18/2002 | | PRETRIAL CONFERENCE as to Luis A. Otero held before Judge Kevin T. Duffy. Deft Luis Otero present w/atty Isabelle Kirshner. AUSA present Wilson Leung. Next conference set for 5/9/02 at 9:30. Deft continued remanded. Time excluded. (bw) (Entered: 04/19/2002) |
| 04/18/2002 | | ORAL ORDER as to Luis A. Otero . SET pretrial conference for 9:30 a.m. 5/9/02 for Luis A. Otero. (Entered by Judge Kevin T. Duffy) (bw) (Entered: 04/19/2002) |
| 05/07/2002 | 19 | Filed Memo-Endorsement on letter addressed to Judge Duffy from AUSA Victor L. Hou, dated 5/6/02, as to deft Luis A. Otero. The Court has adjourned the pretrial conference until 5/14/02 at 9:30 a.m. The parties submit this joint request to exclude time under the Speedy Trial Act from 5/9/02 until 5/14/02, in the interests of justice under the Speedy Trial Act, Title 18 USC Section 3161(h)(8)(A); JUDGE "SO ORDERED". (Signed by Judge Kevin T. Duffy); Copies mailed. (bw) (Entered: 05/08/2002) |
| 05/15/2002 | | PRETRIAL CONFERENCE as to Luis A. Otero held before Judge Kevin T. Duffy. Deft present w/atty Isabelle Kirshner. AUSA present Victor Hou. Next conference set for 5-21-02 at 9:30. Deft continued remanded. Time excluded. (bw) (Entered: 05/17/2002) |
| 05/15/2002 | | ORAL ORDER as to Luis A. Otero . SET pretrial conference for 9:30 5/21/02 for Luis A. Otero. (Entered by Judge Kevin T. Duffy) (bw) (Entered: 05/17/2002) |
| 05/21/2002 | | PRETRIAL CONFERENCE as to Luis A. Otero held before Judge Kevin T. Duffy. Deft not present, atty present Isabelle Kirshner. AUSA present Victor Hou. Trial date set for 6-24-02 at 9:30. Time excluded. (bw) (Entered: 05/22/2002) |
| 05/21/2002 | | ORAL ORDER as to Luis A. Otero . SET Jury trial for 9:30 6/24/02 for Luis A. Otero. (Entered by Judge Kevin T. Duffy) (bw) (Entered: 05/22/2002) |
| 06/11/2002 | | Change of Plea Hearing as to Luis A. Otero held before Judge Kevin T. Duffy. Deft present w/atty Isabelle Kirshner. AUSA present Victor Hou. Deft pleads guilty as charged. Sentence date set for 9-12-02 at 9:30. Deft continued remanded. (bw) (Entered: 06/12/2002) |
| 06/11/2002 | | Change of Not Guilty Plea to Guilty Plea by Luis A. Otero: Luis A. Otero (1) count(s) 1, 2, 3. (bw) (Entered: 06/12/2002) |
| 06/11/2002 | | PLEA entered by Luis A. Otero. Court accepts plea. Guilty: Luis A. Otero (1) count(s) 1, 2, 3. (bw) (Entered: 06/12/2002) |
| 06/11/2002 | | Sentencing set for 9:30 9/12/02 for Luis A. Otero: Luis A. Otero (1) count(s) 1, 2, 3. (bw) (Entered: 06/12/2002) |
| 07/01/2002 | 20 | TRANSCRIPT of record of proceedings as to Luis A. Otero for date of May 15, 2002, before Judge Kevin T. Duffy. (bw) (Entered: 07/02/2002) |
| 07/01/2002 | 21 | TRANSCRIPT of record of proceedings as to Luis A. Otero for date of May 21, 2002, before Judge Kevin T. Duffy. (bw) (Entered: 07/02/2002) |
| 07/01/2002 | 22 | TRANSCRIPT of record of proceedings as to Luis A. Otero for date of May 22, 2002, before Judge Kevin T. Duffy. (bw) (Entered: 07/02/2002) |

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|------------|---|
| 07/11/2002 | 23 TRANSCRIPT of record of proceedings as to Luis A. Otero for dates of 5/15/02 @ 11:45am, before Judge Kevin T. Duffy . (laq) (Entered: 07/11/2002) |
| 08/01/2002 | 24 TRANSCRIPT of record of proceedings as to Luis A. Otero for date of June 11, 2002, before Judge Kevin T. Duffy. (bw) (Entered: 08/05/2002) |
| 10/18/2002 | 25 NOTICE OF APPEAL by Luis A. Otero ; from ; the Judgment not entered in this action as of yet. Copies of notice of appeal mailed to Attorney(s) of Record: A.U.S.A. Victor L. Hou and Court Reporters. (CJA). (dt) (Entered: 10/21/2002) |
| 10/18/2002 | Sentencing held: Luis A. Otero (1) count(s) 1, 2, 3. (bw) (Entered: 10/24/2002) |
| 10/21/2002 | Notice of Appeal with copy of order/judgment and two copies of docket entries as to Luis A. Otero transmitted to USCA re: [25-1] appeal on 10/21/02. (dt) (Entered: 10/21/2002) |
| 10/21/2002 | 26 FILED JUDGMENT in a Criminal Case. Defendant present with attorney Isabelle A. Kirshner. Defendant Luis A. Otero (1), a/k/a "Bigkidy 15," pleaded guilty to count(s) 1, 2 & 3. The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.; The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total of 121 MONTHS. The court makes the following recommendations to the Bureau of Prisons: The deft to be placed in the Northeast Area. The deft is to be placed in a drug program if necessary. The deft is to be placed in Mental Health Program.; The defendant is remanded to the custody of the United States Marshal.; Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 YEARS. The defendant shall not possess a firearm as defined in 18 U.S.C. Section 921. Special Conditions of Supervision: -The deft is to continue to participate in a mental health program. -The Probation Dept. is to approve the mental health program. -If the deft is employed he is to contribute to the costs of the services for the mental health program. -If the deft is working with computers, the probation office is to install, at the deft's expense, a device to filter out websites for pornography, etc. -The deft shall consent that any data from his computer may be seized by the probation department. -The deft is to be supervised in the district where he resides.; The defendant shall pay an assessment of \$300.00.; Judgment and Commitment issued to U.S. Marshal. (Signed by Judge Kevin T. Duffy); docketed as a Judgment #02,2153 on 10/25/02. (bw) Modified on 10/29/2002 (Entered: 10/24/2002) |
| 11/13/2002 | USCA Case Number as to Luis A. Otero Re: [25-1] appeal USCA NUMBER: 02-1623. (dt) (Entered: 11/13/2002) |
| 11/20/2002 | 27 File notice that the record on appeal as to Luis A. Otero has been certified and transmitted to USCA on 11/20/02 [25-1] appeal (02-1623). (pr) (Entered: 11/20/2002) |
| 12/12/2002 | 28 ORDER as to Luis A. Otero. Deft Luis Otero asks the court to appoint new counsel for an appeal of his conviction in the above case. Under the F.R.Cr.P., every deft unable to obtain counsel "shall be entitled to have counsel assigned to represent him at every stage of the proceedings from his initial appearance before the federal magistrate or the court through appeal, unless he waives such appointment." See Heath v. U.S. Parole Commission, 788 F.2d 85, 88 (2d Cir. 1986) (quoting Fed. R. Crim. P. 44(a)). Mr. Otero agreed to and signed a plea bargain agreement offered to him by the U.S. Attorney's Office. This agreement stated that he waived the right to appeal from his guilty plea once the court accepted said plea. I determined that Mr. Otero's guilty plea was knowingly and voluntarily given and I accepted it. I also informed Mr. Otero that he waived his right to appeal but, if he chose to do so, counsel would not be appointed as any appeal would be frivolous. His request to have counsel assigned for his appeal is thererfore denied. (Signed on 12/11/02 by Judge Kevin T. Duffy). [microfilm 12/12/02 3pm] (bw) (Entered: 12/13/2002) |
| 01/16/2003 | 29 TRANSCRIPT of record of proceedings as to Luis A. Otero for dates of October 18, 2002, before Judge Kevin T. Duffy . (dt) (Entered: 01/16/2003) |
| 01/16/2003 | 30 Transmitted 1st. Supplemental Record on Appeal: as to Luis A. Otero the Supplemental Record on Appeal has been certified and transmitted to USCA on 1/16/03 for [25-1] appeal. (02-1623) (pr) (Entered: 01/16/2003) |
| 02/28/2003 | MOTION by Luis A. Otero to vacate under 28 U.S.C. 2255. (Refer to 03-cv-1408). (ph) (Entered: 03/07/2003) |
| 02/28/2003 | CIVIL JUDGMENT for U.S.A.. Ordered, Adjudged and Decreed: That the complaint be and it is hereby dismissed. 28 U.S.C. 1915(e)(2). We certify pursuant to 28 U.S.C. 1915(a)(3) that any appeal from the Court's order will not be taken in good faith. (signed by Chief Judge Michael B. Mukasey). Entered On Docket: 2/28/03. (jol) (Entered: 03/05/2003) ORIGINAL DOCUMENT ENTERED IN CIVIL CASE #03cv1408, DOC. #4. (tp) (Entered: 03/28/2007) |
| 03/06/2003 | by Luis A. Otero, Indexed record on appeal files (02-1623) sent to the U.S.C.A. to Vincenza Singleton. (dt) (Entered: 03/06/2003) |
| 08/21/2003 | 31 MANDATE OF USCA (certified copy) as to Luis A. Otero Re: [25-1] appeal; USCA no. 02-1623; On motion by USA for Summary Affirmance, it is hereby ORDERED that the motion be and it hereby is GRANTED. [Issued As Mandate: 8/11/03] (bw) (Entered: 08/22/2003) |
| 09/07/2005 | Appeal Record Returned. Indexed record on Appeal Files as to Luis A. Otero re: [25] Notice of Appeal - Final Judgment USCA Case Number 02-1623, returned from the U.S. Court of Appeals. (nd,) (Entered: 09/09/2005) |
| 11/15/2006 | 33 NOTICE OF APPEAL by Luis A. Otero from Civil Judgment. Copies sent to attorney(s) of record: A.U.S.A.(tp) (Entered: 03/28/2007) |
| 11/15/2006 | Appeal Remark as to Luis A. Otero re: [33] Notice of Appeal - Final Judgment. \$455.00 APPEAL FEE DUE. IFP REVOKED 2/28/03. COA DENIED 2/28/03. (tp) (Entered: 03/28/2007) |
| 03/21/2007 | 32 PRO SE MEMORANDUM: as to Luis A. Otero RE: CHANGE OF ADDRESS- New Address: 50928-054, Federal Corr. Fac., PO Box 52020, Bennettsville, S.C., 29512. (Entercd: 03/23/2007) |
| 03/28/2007 | Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Luis A. Otero to US Court of Appeals re: [33] Notice of Appeal - Final Judgment. (tp) (Entered: 03/28/2007) |

APPEAL, CLOSED

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:03-cv-01408-MBM
Internal Use Only

Otero v. U.S.A.
Assigned to: Judge Michael B. Mukasey
Demand: \$0
Cause: 28:2255 Motion to Vacate / Correct Illegal Sentence

Date Filed: 02/28/2003
Date Terminated: 02/28/2003
Jury Demand: None
Nature of Suit: 510 Prisoner: Vacate Sentence
Jurisdiction: U.S. Government Defendant

| Date Filed | # | Docket Text |
|------------|---|--|
| 02/28/2003 | 1 | DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS by Luis A. Otero . (jol) (Entered: 03/04/2003) |
| 02/28/2003 | 2 | NOTICE OF MOTION by Luis A. Otero to vacate under 28 U.S.C. 2255 . No further entries. See criminal docket # 01cr1158-01(KTD). (jol) (Entered: 03/04/2003) |
| 02/28/2003 | | Magistrate Judge Douglas F. Eaton is so designated. (jol) (Entered: 03/04/2003) |
| 02/28/2003 | 3 | ORDER OF DISMISSAL I grant movant's request to proceed in forma pauperis, but dismiss the motion for the following reasons. Premature 28 U.S.C. 2255; as detailed further in the order. Accordingly, the motion is dismissed without prejudice. Petitioner is advised that any new motion for post-conviction relief or petition for a writ of habeas corpus must be filed upon disposition of the direct appeal and within the one-year limitation period set forth below. As movant has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue.... We certify pursuant to 28 U.S.C. 1915(a) that any appeal from this order would not be taken in good faith. SO ORDERED. (by Chief Judge Michael B. Mukasey) (jol) (Entered: 03/04/2003) |
| 02/28/2003 | 4 | JUDGMENT for U.S.A. . Ordered, Adjudged and Decreed: That the complaint be and it is hereby dismissed. 28 U.S.C. 1915(e)(2). We certify pursuant to 28 U.S.C. 1915(a)(3) that any appeal from the Court's order will not be taken in good faith. (signed by Chief Judge Michael B. Mukasey). Entered On Docket: 2/28/03. (jol) (Entered: 03/05/2003) |
| 02/28/2003 | | Case closed. (jol) (Entered: 03/05/2003) |
| 11/15/2006 | | NOTICE OF APPEAL from [4] Judgment. Document filed by Luis A. Otero. Copies sent to attorney(s) of record: A.U.S.A. ORIGINAL DOCUMENT ENTERED IN CRIMINAL CASE #01cr1158-1, DOC. #33. (tp) (Entered: 03/28/2007) |
| 11/15/2006 | | Appeal Remark as to Notice of Appeal filed by Luis A. Otero. \$455.00 APPEAL FEE DUE. IFP REVOKED 2/28/03. COA DENIED 2/28/03. (tp) (Entered: 03/28/2007) |
| 03/28/2007 | | Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: Notice of Appeal. (tp) (Entered: 03/28/2007) |
| 03/28/2007 | | Transmission of Notice of Appeal to the District Judge re: Notice of Appeal. (tp) (Entered: 03/28/2007) |